

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

September 30, 2009

Charles R. Fulbruge III  
Clerk

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No. 08-41341  
Summary Calendar

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PAUL K HOWE

Plaintiff-Appellant

v.

POLUNSKY UNIT

Defendant-Appellee

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 9:08-CV-142

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Before BENAVIDES, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Paul K. Howe, Texas prisoner # 1473851, appeals the dismissal as frivolous of his civil rights complaint pursuant to 28 U.S.C. § 1915A(b)(1). He argues that the district court abused its discretion in dismissing his complaint on the basis that Howe named the Polunsky Unit as the sole defendant.

A pro se prisoner's failure to name any legal entity as a defendant does not warrant dismissal of the complaint when it is clear from his complaint that there

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

is a potential ground for relief. *Gallegos v. Louisiana Code of Criminal Procedures Art. 658*, 858 F.2d 1091, 1092 (5th Cir. 1988). Howe's complaint alleges Eighth Amendment violations concerning deliberate indifference to his serious medical needs and inhumane conditions of confinement, which are potential grounds for relief. *See Harper v. Showers*, 174 F.3d 716, 719 (5th Cir. 1999). Consequently, the judgment is vacated and the case remanded to the district court for proceedings not inconsistent with *Gallegos*.

VACATED AND REMANDED.